



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

MTK
F. #2016R00614

*271 Cadman Plaza East
Brooklyn, New York 11201*

November 8, 2019

By Hand and ECF

The Honorable Kiyo A. Matsumoto
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Trish Lum
Criminal Docket No. 17-404 (S-1)(KAM)

Dear Judge Matsumoto:

The government respectfully submits this letter in advance of the defendant Trish Lum's sentencing in the above-captioned case, which is scheduled for November 18, 2019 at 2:00 p.m. On May 2, 2019, the defendant pleaded guilty to one count of distribution of marijuana, in violation of 21 U.S.C. § 841(a)(1). For the reasons set forth below, the government respectfully requests that the Court impose a sentence of three years' probation.

I. Background

The Pre-Sentence Investigation Report ("PSR") accurately sets forth the offense conduct. On March 23, 2017, a DEA confidential source informed Lum's co-defendant, Albert Veliu, that he/she was interested in purchasing marijuana. Thereafter, Albert Veliu contacted Lum – who he knew to be a marijuana supplier – and arranged for the sale of approximately five pounds of marijuana. Lum subsequently provided Veliu with her bank account information so that the confidential source could wire payment to Lum. On April 14, 2017, DEA agents wired \$7,500 to Lum's bank account as payment for the drugs. On April 21, 2017, DEA agents received a five-pound shipment of marijuana from Lum. The package was sent through the mail and addressed to the confidential source.

II. Guidelines Calculation

The government agrees with the Guidelines calculation set forth as follows in the PSR:

Base Offense Level (§ 2D1.1(c)(16))	8
Total:	<u>8</u>

The Probation Department calculated that the defendant's criminal history score is 0, and that her criminal history category therefore is I. PSR ¶ 69. After two levels are subtracted from the total offense level of 8 to reflect the defendant's acceptance of responsibility, the resulting offense level is 6. This results in an applicable Guidelines range of 0 to 6 months' imprisonment.

III. Analysis

The government respectfully submits that a sentence of three years' probation is appropriate in light of the factors set forth in 18 U.S.C. § 3553(a). Interpreting the Supreme Court's decision in United States v. Booker, the Second Circuit has held that "sentencing judges remain under a duty with respect to the Guidelines . . . to consider them, along with the other factors listed in section 3553(a)." United States v. Crosby, 397 F.3d 103, 111 (2d Cir. 2005). "While district courts enjoy discretion following Booker, that discretion must be informed by the § 3553(a) factors[.]" Id. at 132 (internal quotation marks omitted). In this case, the factors set forth in 18 U.S.C. § 3553(a) weigh in favor of a probationary sentence.

A sentence of three years' probation is appropriate because it reflects the seriousness of the defendant's crime of distributing marijuana while also accounting for her acceptance of responsibility in pleading guilty. Additionally, a sentence of probation will serve the goal of both specific and general deterrence. This prosecution itself is meaningful punishment that will likely deter the defendant from reoffending. In addition, even a probationary sentence will serve the goal of general deterrence because others who are tempted to participate in such criminal activities will understand that the consequences of such conduct include a felony conviction and its collateral consequences.

IV. Conclusion

For the reasons set forth above, the government respectfully requests that the Court sentence the defendant to three years' probation.

Respectfully submitted,

RICHARD P. DONOGHUE
United States Attorney

By: /s/
Michael T. Keilty
Assistant U.S. Attorney
(718) 254-7528

cc: John Burke, Esq. (by ECF)
Clerk of Court (KAM) (by ECF)